PRESIDENT: We will now proceed with the Legislative business.

MR. S. SANKARANARAYANAN TAMPI: Sir, I invite and draw the attention of the Chair to a matter of procedure in the Assembly and request a considered ruling on that matter. The matter is regarding the question of the intervention of the Chair as the Head of the Executive during question hour and also during debate times. Last time during question hour this matter was raised in the Assembly, but not as a point of order and no ruling was given. So, I glanced through the pages of the Statute book and I now bring it before you to give a considered ruling. As I went through the statute, the provisions which confer right to the Head of the Executive to address the Assembly or the Council or a joint sitting of the Assembly and the Council are by the following sections. Sub-section 4 of Section 5 of Act 2 of 1108 reads:— "Our Dewan shall have the right of addressing the Council and may for that purpose require the attendance of its members." Another section is sub-section 3 of section 6 which reads:— "Our Dewan shall have the right of addressing the Assembly and may for that purpose require the attendance of its members." Then again section 8 says "Our Dewan shall have the right of addressing the members of the Council and the Assembly at a joint sitting and may for that purpose require the attendance of the members of both Chambers at such joint sitting." These are the three relevant portions which I find in the statute book conferring right on the Dewan to address the Legislature as the Dewan. According to Parliamentary procedure what is obtaining in civilised countries is for the president to direct the proceedings of the assembly and not to intervene at every point in the debate.

PRESIDENT: Here the President is also the Dewan. It does not apply anywhere else.

MR. S. SANKARANARAYANAN TAMPI: I was just bringing to your notice the anomalous position which is brought about on account of the Dewan intervening at debate time. The position is this. Suppose an honourable member is on his legs and speaking on a particular subject. The President stands up in the capacity of the President. When he stands up the member has necessarily to sit down. But as soon as the President stands up he attempts to speak on behalf of Government as the Head of the Executive and transforms himself from the capacity of the President into the capacity of the Dewan. But on the other hand, when an honourable member is speaking if any honourable member of the Treasury Bench tries to intervene he will find it difficult if the member who is on his legs is not willing to yield his place. Suppose when I am on my legs and if any other member wants to intervene other than for the purpose of raising a point of order then I need not yield my place. But a member is forced to yield his place when the President stands up in the capacity of the President. He then transforms himself into the capacity of the Dewan and speaks on behalf of Government. This is the position which requires elucidation and which makes parliamentary work impossible. Therefore, I invite a ruling on that matter.

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Moreover, there is this point also to be considered, The reports of the Assembly proceeding go to other parts of the world or at least to other parts of India.

PRESIDENT : It goes to other parts of the world.

MR. S. SANKARANARAYANAN TAMPI: The system obtaining here will be known to people in other parts of the world. It is so undemocratic and unconstitutional that it does not indicate a happy position. Anybody reading the reports of the Assembly will find that more than half the time is taken by the President in the capacity of the Dewan and not in the capacity of the President.

I may also draw your attention to an observation made by you, Sir, when an honourable member tried to put a question to another honourable member who was on his legs. You then observed that he should not be interrupted as often as this because the trend of the debate may be lost, he may lose the coherence of ideas and may run into confusion. That is exactly the reason why the president should not interrupt honourable members so often, stand up on his legs and say all sorts of things on behalf of Government.

This being a very important matter, which requires constitutional elucidation, I request you, Sir, to invite opinion from other quarters of the House and pass a ruling on the matter.

PRESIDENT : This is a matter on which I do not consider it necessary to invite the opinion of any other member of the House. It is admitted that the statute under which we are conducting our business and the rulings and standing orders appurtenant to that statute are of a character which may be described as *sui generis*. The question whether the statute is undemocratic is for the present discussion, beside the point. It must therefore be remembered that if and so long as the Dewan, that is the Head of the Administration is also ex-officio president, that situation itself has to be dealt with as a special case, because in other legislatures as in Westminister, and the Legislative assembly in Delhi, there is a separate president, and members of Government are seated on the Treasury Benches and functioning as members of a Cabinet. A situation where the Dewan is also the president has not arisen elsewhere and if proceedings of this House statements made by the Dewan as a member of Government or as Head of the administration in addition to the rulings given by him as president may seem to Honourable Members to be undemocratic or unconstitutional, the answer can only be that the situation is peculiar and the result flows from the situation and there is no unconstitutionality in following our constitution. Honourable members will see that under Section 7 of the Act, "Our Dewan shall be the president of the assembly" and also under Standing Order 74 the president shall have the power to regulate the conduct of business in the assembly. In all matters not specifically provided for in the Act, Rules or Standing Orders therefore, the president has certain residual powers. If one is to be meticulously legal the president can therefore authorise the Dewan to take part as such in proceedings in matters which are not specifically dealt

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with in the rules or Standing Orders. The president has to make up his mind whether to allow the Dewan to intervene in the debate for the purpose of elucidating any position or of announcing Government policy. The position is special and may even be described as anomalous but there were sound reasons underlying the enactment. There is no getting away from the fact that the Dewan here is also in the position of the Head of the administration and as in the case of all Governments where there is a ministry, the head of the administration or the head of the ministry has the duty and the right at all the appropriate stages and on all legitimate occasions to defend or announce Government policy and Government decisions. That has been done generally by the Dewan in Travancore, as in this State the only person who conducts the Government under His Highness' directions and commands is the Dewan. He is helped by a well organised Secretariat and by several departmental officials but the honourable members who sit on the Government side are simply the delegates of the Dewan and the sole resposibility for every act of the administration is vested only in the Dewan and not on any Head of the department or on any member of the Secretariat. Questions answered by officials and speeches made by the Chief Secretary are regarded as dealt with under a delegated authority. That is the constitutional position which is inseparable from our statutes and usage, Where there are members of a cabinet each one of whom is given exclusive jurisdiction over certain departments, they will assume and exercise separate responsibility for the items of administration which are in their several charges. Here, the Government of Travancore rightly or wrongly is run on the basis that the only person responsible to His Highness for the conduct of every department of Government is the Dewan who alone is directly responsible to him though all officers owe allegiance to the sovereign and work as his agents. The Dewan is assisted by various other persons appointed by His Highness but the responsibility resting on them is exercised under the directions of the Head of the administration. That again is a constitutional position peculiarly inseparable from the present constitution of many of the greater Indian States where the Maharaja has decided to act under a constitutional scheme whereby he devolves the administration of the country on the Dewan so long as Dewan commands the confidence of the Sovereign. It follows that all officials who answer questions are answering under the instructions of the Dewan. Whether it is the Chief Secretary or the Excise Commissioner or anybody else, he does not answer the questions by himself. He answers questions only under directions and in pursuance of State policy. If the answers or announced policies are faulty or wrong, the Dewan cannot divest himself of responsibility to the public and to his Sovereign. The Dewan is responsible for every branch of the administration, legislative and executive, but not judicial, because of certain statutory enactments and certain conventions that have been established in the State by reason of which the executive never interferes with or impinges upon the judiciary. Apart, therefore, from the actual judicial administration, every other item of administration is the sole, exclusive and undivided responsibility of the Dewan.

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That being so, the question arises as to what the Dewan's position *vis a vis* this Assembly is. All resolutions are in reality dealt with by him. All questions are answered on his behalf. All adjournment motions are addressed to him. All votes of censure or votes of approbation are referrable to him. That being the constitutional position, there is in strict law no such thing as a Treasury Bench, officers sitting on the Front Bench being intrinsically delegates to answer questions. That position has to be assimilated with the legal position of the President of the Legislative Assembly. The President of the Legislative Assembly has been given certain statutory and residual powers. But where the position of the President ends and where the position of the Dewan begins, is, according to the present constitution, one that cannot be disentangled. It may be that the Dewan may take undue advantage of his position as Dewan and utilise Presidential powers and even encroach on the President's jurisdiction. But the rule to be observed has to be established by a course of convention. The matter is not newly brought up for the first time, although from the speech of the honourable member it would appear that this has seemed a very new and important matter. I do not consider the thing as a new one at all. The same question was put on a previous occasion by Mr. E. J. Philipose. "May I know whether it is open to the President when addressing on a matter of constitutional importance, to speak on behalf of the Government and make the policy of the Government clear when there are Government nominated members who could do that and thereby serve to a very great extent to influence the view of the House?" The President ruled: The President may, under Standing Order 24, in all cases address the Assembly before putting the question to the vote. Then under Section 7 of the Act the Dewan shall be the President of the Assembly. There can be no difference between the President of the Assembly and the Dewan. To camouflage the position is to mislead the House. The President cannot confine himself to points of order when as Dewan he has to be responsible for legislation and the administration of the country to the Sovereign. That is one of the drawbacks or the advantages of the present constitution, as the President of the Assembly is also the Head of the Government. It has been considered necessary that the President of this Assembly should be the Head of the Government. It may be right or it may be wrong policy by reason of which these sections have been enacted, but there they are and they must be implemented. What the President says or rules is one thing and what he says from his position as the Head of the Government is another but the line is not easy to draw He acts as President when preserving order and guiding the debates in the House. But when enunciating a policy or answering questions put by members to Government he necessarily and without camouflage, speaks as Head of the Government from his Presidential seat.

Moreover honourable members have perhaps forgotten that in the old Imperial Legislative Council, and in various Provincial Legislative Councils, in one of which I have participated, the Viceroy and the Governors who presided over them had to and did address the member

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and enunciate their views as Heads of Governments in addition to functioning as Presidents of those Councils. That was exactly what happened in the Minto-Morley dispensation. Who can have forgotten Lord Curzon's speeches on Mr, Gokhale's Bill? Having given this topic my anxious consideration, in view to what has fallen from the honourable member, I reassert the right of the Dewan to intervene at all appropriate and correct stages for the purpose of enunciating the policy of Government and answering questions when necessary. As President, he has certain rights of maintaining order and dealing with the debate and delimiting the debate of the House. But as President, and as Dewan together, he has also the right, whenever necessary, to indicate the policy of Government and the actions that have been or are proposed to be taken. In fact, there is nobody else, excepting by delegation, who can enunciate the policy of Government. It is not open to any Head of the Department or to any Secretary independently to enunciate the policy of Government which is solely for decision by the Dewan acting under the mandate and under the *Nest* of the Sovereign, and in so far as anybody else enunciates the policy of Government, he does it as a delegated person under the instructions of the Dewan. Therefore, every statement of policy by anybody on the Treasury Bench is definitely and legally a statement made by the Dewan or the Dewan-President.

LEGISLATIVE BUSINESS.

THE TRAVANCORE CHITTIES BILL.

Clause 7

MR. K. K. CHELLAPPAN PILLAI: Sir, I was speaking in respect of Mr. P. S. Nataraja Pillai's amendment. This Section has been introduced as per the recommendations of the Chitties Act Committee of 1941, 1942. It is contemplated by this Section that the fraud that is being committed by small chitty holders of the rural parts, especially in cases when the foreman used to conduct chitties of the value of less than Rs. 100, should be prevented. This taking out of licences does not in the least mitigate the situation nor will it lessen the fraud. It will perhaps enhance the revenue of the State. But the harm it will do will be far greater than the benefit it bestows.

It is stated here in the Report that people conduct many small Chitties at a time without control and it is the object of the Section to prevent it. But on another occasion it is also said that one cannot go in for more chitties than one at a time; such are the poor foreman. It is also reported that there has been no statistics taken as to the number of chitties below the value of Rs. 100. I do not know how the sponsors of this Act then introduced such a section just to change the former Law relating to small chitties without sufficient data. Neither has any statistics been taken of the litigation that has been going on

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